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Counterclaimant Community Insurance
Agency, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Insubuy, Inc.

Plaintiff,

v.

Community Insurance Agency, Inc.,
Ramesh J. Patel, Gubman N. Moore,
Inc. and Robert M. Chorzepa,

Defendants/Counterclaimants.

No. _____

(Case No. 10-03925 Pending in the
Federal District Court for the Northern
District of Illinois)

**MOTION TO QUASH SUBPOENA
DUCES TECUM ISSUED TO GO
DADDY, INC.**

Community Insurance Agency, Inc.

Counterclaimant,

v.

Insubuy, Inc. and Narendra Khatri,

Defendants/Counterclaimants.

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Movant Community Insurance Agency, Inc. (“CIA”) moves under Fed. R. Civ. P. 26 and 45 to quash the subpoena duces tecum (attached as Exhibit 1) issued by Insubuy, Inc. (“Plaintiff”) to Go Daddy, Inc. (“Go Daddy”). The subpoena was issued in connection with Case No. 10-03925 currently pending in Federal District Court for the Northern District of Illinois (hereinafter “the Illinois Action”). The subpoena seeks production of documents and things in Arizona from Go Daddy, an Arizona corporation. As explained below, CIA seeks to quash the subpoenas because the subpoena: (1) violates the Protective Order entered in the Illinois Action; (2) seeks confidential and trade secret information; (3) seeks to improperly shift the burden of production; (4) seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence in the Illinois Action; and (5) is overly broad. This motion to quash is supported by the following Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiff is attempting to circumvent the protective order in the Illinois Action by serving a subpoena duces tecum on Go Daddy, an Internet domain registrar and Web hosting company. Plaintiff’s subpoena specifies a return date of January 5, 2011. However, upon the parties’ meet and confer, Plaintiff acquiesced to extending the deadline to January 19, 2011. The subpoena demands irrelevant information relating to all Internet domain names registered by or on behalf of CIA since January 1, 2002 and serves only to harass CIA. Accordingly, the Court should quash or modify Plaintiff’s subpoena as requested below.

I. PROCEDURAL BACKGROUND.

Plaintiff and CIA both provide medical insurances services to foreigners visiting the U.S. or vice versa. Plaintiff sued Defendants CIA, Ramesh J. Patel, Robert M. Chorzepa, and Gubman N. Moore, Inc., alleging, inter alia, trademark infringement and

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1 cybersquatting involving 52 allegedly infringing domains. *See* Exhibit 2. The Court
2 handling the underlying matter pending in the Northern District of Illinois entered a
3 protective order the Illinois Action, which included “Restricted Information,” for
4 protection of sensitive documents. *See* Exhibit 3.

5 On or about December 22, 2010, Plaintiff served a subpoena on Go Daddy seeking
6 all Internet domain names registered by or on behalf of CIA from January 1, 2002 to the
7 present. On December 29, 2010, Compliance Manager of Go Daddy sent a notice that it
8 has been served with a subpoena and that “only way to object to a properly filed subpoena
9 is by filing an objection with the court in which the matter is pending.” *See* Exhibit 4.
10 The Compliance Manager of Go Daddy also informed CIA that in the event it is to
11 comply with the subpoena, Go Daddy will “charge your [CIA’s] account according to our
12 registration agreement.” *Id.*

13 On December 30, 2010, pursuant to Rule 26 and 45 of the Federal Rules of Civil
14 Procedure, CIA wrote an email to Plaintiff stating its objections to the subpoena. *See*
15 Exhibit 5. On December 31, 2010, CIA notified Go Daddy that it intended to object to the
16 subpoena if Plaintiff would not withdraw the subpoena. *See* Exhibit 6. On January 3,
17 2011, in a good faith effort to avoid the filing of this Motion, CIA’s counsel and
18 Plaintiff’s counsel have conferred via telephone conference. Counsels have been unable
19 to reach an accord. *See* Exhibit 7.

20 **II. THE SUBPOENA SHOULD BE QUASHED.**

21 Federal Rule of Civil Procedure 26(c)(1)(B) allows the Court to issue an order “to
22 protect a party or person from annoyance, embarrassment, oppression, or undue burden or
23 expense,” including “specifying terms, including time and place, for the disclosure or
24 discovery.” Fed. R. Civ. P. 26(c)(1)(B). The subpoena to Go Daddy is objectionable for
25 reasons stated below.
26

1 First, the subpoena should be quashed because it unreasonably shifts the burden of
2 production to CIA by having CIA pay for the costs of producing the documents. For this
3 reason alone, the Court should issue an order quashing the subpoena.

4 In addition, none of the information sought in connection with the document
5 requests appended to the subpoena is relevant to the Illinois Action. In fact, the subpoena
6 should be quashed because it is overbroad in time and scope and irrelevant as it seeks all
7 Internet domain names registered by or on behalf of CIA. To the extent that any relevant
8 information could be gleaned from disclosure of the information sought in the subpoenas,
9 Plaintiff already has information as it pertains to the 52 allegedly infringing domains in
10 this case. To wit, Plaintiff is not entitled to the vastly overbroad and irrelevant detailed
11 information dump it now seeks, which amounts to a fishing expedition.

12 Moreover, CIA has a direct and proprietary interest in the lists of domain names it
13 registered, as such domain names sought by the subpoena are important to CIA's
14 marketing efforts, which disclosure to Plaintiff would effectively create a windfall for
15 Plaintiff at the expense of CIA, given the proclivity of Plaintiff to register similar and
16 confusing domain names to that of CIA's to hijack CIA's customers and potential
17 customers. *See* Exhibit 8, pp. 23-31.

18 Also, the subpoena seeks all Internet domain names registered by co-defendants
19 Robert Chorzepa ("Chorzepa") and Gubman N. Moore, Inc. ("Gubman"). However,
20 Chorzepa, who owns Gubman, is an independent contractor for CIA who also registers
21 Internet domains for other third parties, not named in the Illinois Action. Instead of
22 limiting the requests to documents related to any of the claims in the Illinois Action,
23 Plaintiff broadly embarks on a fishing expedition for irrelevant information seeking all
24 Internet domains registered by the Defendants. As such, Plaintiff's subpoena to Go
25 Daddy is overly broad in time and scope and seeks information which is irrelevant to any
26

1 of the claims in this case, and is therefore not discoverable, and must be quashed. *See,*
2 *e.g., Lewin v. Neckard Bottling Co.*, 2010 WL 4607402 (D. Ariz. Nov. 4, 2010) (quashing
3 subpoena as overbroad and not reasonably calculated to lead to discovery of admissible
4 evidence where the defendant failed to limit the category of information sought).

5 In addition to being overly broad in time and scope, CIA, as well as co-defendants
6 Chorzepa and Gubman, has a direct protectable and proprietary interest in the subject
7 documents relating to all Internet domain names registered with Go Daddy as those
8 documents are vitally important to CIA's marketing activities. To the extent that any
9 relevant information can be gleaned from the overbroad requests appended to the
10 subpoena, the need for such information is outweighed by the availability of information
11 from CIA, and the proprietary and commercial nature of the information. In particular,
12 the information sought in request nos. 1 and 2 in the subpoena are not relevant to any of
13 the claims in the Illinois Action, and are thus not discoverable. To the extent that the
14 Court deems these items as relevant, the information must be protected from disclosure
15 under Fed. R. Civ. P. 45(c)(3)(B), or under a protective order pursuant to Rule 26(c).

16 To reiterate, the master list of Internet domain names sought in request nos. 1 and 2
17 are proprietary and constitute confidential commercial information subject to protection
18 from disclosure. Aside from being irrelevant to any claim of trademark infringement or
19 cybersquatting, disclosure of these master Internet domain names would create a windfall
20 for Plaintiff and constitute an abuse of the subpoena power of this Court. These lists are
21 maintained at great expense and value and are critical marketing tools for CIA's insurance
22 business. Accordingly, the master Internet domain names, broadly sought in the
23 subpoena, are subject to protection under Fed. R. Civ. P. 45(c).

24 Moreover, all Internet domain names registered by the co-defendants are protected
25 trade secrets and highly confidential commercial information. Co-defendants Chorzepa
26

1 and Gubman serve not just CIA but other businesses in registering and maintaining
2 domain names for their respective marketing and advertising efforts, and should not be
3 disclosed. To the extent such information is arguably relevant to this litigation, it is more
4 appropriately addressed in discovery directed to the parties.

5 **III. CONCLUSION.**

6 For all of the foregoing reasons, Defendant Community Insurance Agency, Inc.
7 respectfully requests that the Court quash the subpoena.
8

9 DATED this 19th day of January, 2011.
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CERTIFICATE OF SERVICE

I certify that on January 19, 2011, I electronically transmitted the foregoing to the Clerk's Office using the CM/ECF System for filing.

COPIES of the foregoing mailed
this 19th day of January, 2011, to:

GODADDY.COM, INC.
c/o Sherry Delgado
14455 N. Hayden Road, #219
Scottsdale, Arizona 85260

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